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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2021-

APPROVING REVISIONS INCORPORATED INTO THE CENTRAL VALLEY SALT AND NITRATE CONTROL PROGRAM BASIN PLAN AMENDMENTS TO THE WATER QUALITY CONTROL PLANS FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS AND THE TULARE LAKE BASIN

### WHEREAS:

1. Instruction: On December 10, 2020, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted [Resolution R5-2020-0057](#), amending the Water Quality Control Plans for the Sacramento and San Joaquin River Basin Plan and Tulare Lake Basin Plan (Basin Plans) to incorporate revisions to the previously adopted and approved Salt and Nitrate Control Program Basin Plan Amendments. These revisions included changes directed by the State Water Resources Control Board (State Water Board) in [Resolution No. 2019-0057](#), clarifying and non-substantive revisions made by the Central Valley Water Board, and removal of provisions that were not approved in the U.S. Environmental Protection Agency (U.S. EPA) review of the original Salt and Nitrate Control Program Basin Plan Amendments.
2. Previously, on May 31, 2018 the Central Valley Water Board had adopted the original Salt and Nitrate Control Program Basin Plan Amendments in Central Valley Water Board [Resolution R5-2018-0034](#). These Basin Plan Amendments are designed to address both legacy and ongoing salt and nitrate accumulation issues, and establish a prioritized Nitrate Control Program for discharges to groundwater and a phased Salt Control Program for discharges to surface water and groundwater throughout the Central Valley.
3. On October 16, 2019 the State Water Board approved the original Salt and Nitrate Control Program Basin Plan Amendments with State Water Board Resolution No. 2019-0057. This approval directed the Central Valley Water Board to incorporate targeted revisions to the Salt and Nitrate Control Program Basin Plan Amendments within one year of the approval of the Basin Plan Amendments by the Office of Administrative Law. The direction to make these revisions was due to concerns regarding some implementation aspects of the Basin Plan Amendments raised during the public participation process. The concerns about short-term implementation measures were addressed by the State Water Board providing specific direction to the Central Valley Water Board in Resolution 2019-0057. The long-term implementation concerns were addressed by the State Water Board directing the Central Valley Water Board to make targeted revisions to the Basin Plan Amendments.

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4. During the pendency of the State Water Board-directed revisions, the State Water Board approved the original Salt and Nitrate Control Program Basin Plan Amendments so that the short-term implementation of the Basin Plan Amendments could commence.
5. The Central Valley Water Board previously adopted findings and statements of overriding consideration regarding the environmental effects of the original Salt and Nitrate Control Program Basin Plan Amendments. The State Water Board reviewed the May 2018 staff report for the original Salt and Nitrate Control Program Basin Plan Amendments and incorporated the Central Valley Water Board's findings and statements of overriding consideration. The Central Valley Water Board and State Water Board further found that the revisions to the original Salt and Nitrate Control Program Basin Plan Amendments directed in paragraph 4 of the State Water Board Resolution No. 2019-0057 do not result in any of the conditions that require a subsequent environmental impact report in accordance with California Code of Regulations, title 14, section 15162.
6. The Office of Administrative Law (OAL) filed a Notice of Decision regarding approval of the original Basin Plan Amendments on January 17, 2020.
7. On November 2, 2020 the U.S. EPA approved the original Basin Plan Amendments except for the following provisions, which U.S. EPA disapproved:
  - a. Temporary authorization of constituents ranging to the short-term level of Secondary Maximum Contaminant Levels in Title 22 of the California Code of Regulations (Title 22), Table 64449-B.
  - b. Authorization of exceedances of Secondary Maximum Contaminant Levels listed in Title 22, Tables 64449-A or 64449-B, due to natural background concentrations.
  - c. Variance Program for Salinity Water Quality Standards.

The provisions that U.S. EPA disapproved of are not effective and so were removed from the original Salt and Nitrate Control Program Basin Plan Amendments.

8. The Central Valley Water Board adopted the Basin Plan Amendments pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
9. The Central Valley Water Board had previously found the original Salt and Nitrate Control Program Basin Plan Amendments to be consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California (State Water Board [Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. section 131.12), as described in the Central

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Valley Water Board May 2018 staff report for the original Salt and Nitrate Control Program Basin Plan Amendments. The revisions to the Salt and Nitrate Control Program Basin Plan Amendments are also consistent with both policies.

10. The State Water Board finds that the revisions to the original Salt and Nitrate Control Program Basin Plan Amendments are in conformance with Water Code section 13240, which specifies that regional water quality control boards may revise basin plans, and Water Code section 13242, which requires a program of implementation for achieving water quality objectives.
11. A Basin Plan Amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL) and the regulations relevant to surface water receive approval from the U.S. Environmental Protection Agency (U.S. EPA).
12. As authorized by Central Valley Water Board Resolution No. R5-2020-0057, the Central Valley Water Board's Executive Officer made minor, non-substantive changes to the language of the revisions to the Salt and Nitrate Control Program Basin Plan Amendments that were necessary to correct minor clerical errors or to improve clarity and consistency. These changes were communicated in a memorandum to the State Water Resources Control Board dated April 28, 2021.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan Amendments adopted under Central Valley Water Board Resolution No. R5-2020-0057.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan Amendments adopted under Central Valley Water Board Resolution R5-2020-0057 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the regulatory provisions related to surface water.

## **CERTIFICATION**

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 1, 2021.

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Jeanine Townsend  
Clerk to the Board